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To provide for the conveyance of certain land to the United States, to be held in trust (~~restricted status~~) for the Quapaw Tribe of Indians of Oklahoma for environmental remediation, economic development, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

## SECTION 1. SHORT TITLE.

This Act may be cited as the “Tar Creek Land Remediation and Economic Development Act of 2011.”

## SEC. 2. PURPOSE.

The purpose of this Act is to facilitate and streamline the remediation of the Tar Creek Superfund Site and to encourage economic development of the area by providing for the consolidation of ownership interests in land the State of Oklahoma acquired under authority of Public Law 110-114 (121 Stat. 1041) for the purpose of relocation of the individuals residing thereon;

The State of Oklahoma now desires to divest itself of such lands;

The Quapaw Tribe of Indians of Oklahoma has informed Congress, the Department of the Interior, and the State of Oklahoma that it desires to acquire such lands for the purpose of environmental remediation and economic development; and

Congress desires to facilitate the transfer desired by the State and requested by the Tribe.

## SEC. 3. DEFINITIONS.

In this Act:

(1) “Covered Area” means **IC area of map** of Township 29 North, Range 24 East in Ottawa County, Oklahoma.

(2) “Indian” means any person who is a member of any Indian tribe or is eligible to become a member of any Indian tribe, or any person who has been found to meet the definition of ‘Indian’ under a provision of Federal law if the Secretary determines that using such law’s definition of Indian is consistent with the purposes of this Act.

(3) “LICRA Trust” means the Lead Impacted Communities Relocation Assistance Trust of Oklahoma established pursuant to Title 60 of the Oklahoma Statutes.

(4) “Secretary” means the Secretary of the Interior.

(5) “State” means the State of Oklahoma.

(6) “Superfund Site” means any lands designated by the U.S. Environmental Protection Agency as being included within the geographic area of the Tar Creek Superfund Site.

(7) “Tribe” means the Quapaw Tribe of Indians of Oklahoma, a federally recognized Indian tribe, also known as the Quapaw Tribe of Oklahoma (O-Gah-Pah).

(8) “Trust or Restricted Land” means land the title to which is held by the United States in trust for an Indian or an Indian tribe or lands the title to which is held by Indians or an Indian tribe subject to restrictions by the United States against alienation.

#### SEC. 4. CONVEYANCE OF COVERED AREA LAND TO SECRETARY.

(a) Conveyance by the Tribe.—

Subject to subsections (c), (d) and (e), if the Tribe offers to convey to the Secretary, without monetary consideration from the United States, all right, title, and interest of the Tribe in and to any lands, other than Trust or Restricted Lands, within the Covered Area, or any fractional interest in such lands—

(1) the Secretary shall accept the conveyance; and

(2) title to the Covered Area land conveyed hereunder shall be held by the United States in trust (~~in restricted status~~) for the benefit and use of the Tribe.

(b) Conveyance by the LICRA Trust.—

Subject to subsections (c), (d) and (e), if the LICRA Trust or the Tribe offers to convey to the Secretary, without monetary consideration from the United States, all right, title, and interest of the LICRA Trust in and to any lands held by the Trust on August 1, 2010, or any fractional interest in such lands—

(1) the Secretary shall accept the conveyance; and

(2) title to the Covered Area land conveyed hereunder shall be held by the United States in trust (~~in restricted status~~) for the benefit and use of the Tribe.

(c) Restrictions on Use of Covered Area.—

Covered Area taken into trust after the date of this ~~A~~act under subsection (a) shall not be used for any—

(1) commercial use, excluding chat sales, commercial use relating to chat sales, and commercial uses relating to or involving site remediation;

(2) educational use, excluding educational, research, scientific and similar uses that do not involve habitation or continuous occupation over an extended period of time;

(3) residential use;

(4) gaming, including without limitation class I gaming, class II gaming, or class III gaming, as those terms are defined in section 4 of the Indian Gaming Regulatory Act, 102 Stat. 2467, as amended, 25 U.S.C. 2703, or

(5) any other purpose that involves the continuous occupancy of private or public buildings within the Covered Area land, except for as provided -for herein.

(d) Limitations on Water Well Drilling.—

No public water wells shall be drilled within the Covered Area after the date of this Act, unless approval for such drilling is given by the United States Environmental Protection Agency.

(e) Limitation on Conveyances Under This Section.—

—The conveyances under subsections (a) and (b) shall only occur if the Secretary, in consultation with the Administrator of the Environmental Protection Agency, determines that the Covered Area conveyed land is being remediated in accordance with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, (42 U.S.C. 9601 et seq.).

(f) Permitted Uses of Covered Area Land.—

Covered Area land taken into trust under subsection (a) may, without limitation, be used for—

- (1) hunting and fishing, including traditional Tribal hunting and fishing;
  - (2) agriculture, including traditional Tribal and subsistence agriculture;
  - (3) governmental activities of the Tribe that do not involve continuous use or occupancy or habitation of public buildings;
  - (4) cultural and religious activities of the Tribe and its members;
  - (5) wastewater treatment and treatment of drinking water, including water for sale;
- and
- (6) governmental functions of the Tribe to be conducted at the site of the former Picher school and the former Picher fire station, provided that such activities do not involve the routine presence of persons under the age of 18 years.

(g) Enforcement of Use Restrictions.—

The Attorney General of the State of Oklahoma may seek appropriate injunctive or non-monetary relief to enforce the restrictions in subsections (c) and (d) by bringing a civil action in a court of competent jurisdiction on the State's behalf.

## SEC. 5. CONVEYANCE OF RESTRICTED INDIAN LANDS.

(a) Consolidation of Interests in Indian Lands Within the Covered Area.—

(1) At the request of any individual Indian who owns any interest in a parcel of Restricted Land within the ~~Superfund Site~~Covered Area, the Secretary shall permit the Tribe to acquire title to such interest in the name of the Tribe subject to restriction by the United States against alienation.

(2) At the request of the Tribe, the Secretary shall acquire any interest in Restricted

Land held by the Tribe within the Covered Area in trust ~~(in restricted status)~~ for the use and benefit of the Tribe.

(b) Procedure for Conveyances of Indian Land to the Tribe.—

Conveyances of Indian lands to the Tribe under subsection (a) shall be made by and through, and shall be deemed to be conveyances pursuant to, the Indian Land Consolidation Act, as amended, 25 U.S.C. § 2201 et seq.; provided, however, that the Secretary shall not have discretion to reject applications by individual Indians or the Tribe to effect such conveyances.

(c) Acquisition of Indian Chat.—

Upon application by an individual Indian, the Secretary shall permit the Tribe to acquire, at either fair market value or a negotiated value, any interest in chat, as defined in 40 C.F.R. Part 278, within the Superfund Site, the title to which is held by an individual Indian subject to restriction by the United States against alienation and/or as Indian trust personalty.

## SEC. 6. ENVIRONMENTAL REVIEW.

No action taken by the Secretary under this Act shall be deemed a major federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

## SEC. 7. LIMITATIONS ON LIABILITY.

(a) Liability of the United States.—

—Beginning on the date on which the Secretary accepts any conveyances permitted hereunder, if any further contamination is discovered or any remediation is required on such conveyed land, other than any remediation activities being carried out on the day before the date on which the covered land is conveyed—

(1) the contamination or remediation shall be addressed in accordance with the CERCLA; and

(2) the United States shall not be liable for damages arising out of any act, omission, or occurrence relating to the conveyance of the covered land, but shall continue to be liable for any such damages for which it was liable before the date of conveyance.

(b) Natural Resources Trustee.—

For purposes of Section 107(f) of CERCLA,[ 42 U.S.C. 9607], the Secretary shall act as trustee for natural resources on any Covered Area land conveyed to the United States by the LICRA Trust.

(c) Operations and Maintenance.—

—Notwithstanding any other provision of law, the Secretary will provide Operation and Maintenance within the meaning of CERCLA on the Covered Area lands, as provided in the Record of Decision, “Operable Unit 4, Chat Piles, Other Mine and Mill Waste, and

Smelter Waste, Tar Creek Superfund Site,” issued February 20, 2008, and any amendments to the Record of Decision.

(d) Tribal Member and Tribal Liability.—

Individual Indians and the Tribe shall not be held liable under any law for acts or omissions related to the ownership, storage, milling, or processing, or sale, or sale of chat in which they hold ownership interest, and which took place prior to the date the President signs this Act. After the President signs this Act, individual Indians and the Tribe shall not be held liable under any law for the storage, milling, processing or sale of chat in which they hold ownership interest provided that the storage, milling, processing, or sale of the chat is in accordance with EPA’s Record of Decision for Operable Unit 4 of the Tar Creek Superfund Site (February 20, 2008) and any future amendments to this Record of Decision made by EPA pursuant to the National Contingency Plan, 40 C.F.R. Part 300. Provided, further, that the chat owned or sold by individual Indians and the Tribe is used in accordance with Section 19.2.2 (Chat Sales and Environmentally Acceptable Chat Use) of EPA’s Record of Decision for Operable Unit 4 of the Tar Creek Superfund Site (February 20, 2008), the individual Indians and the Tribe shall not be held liable under any law for the sale or use of the chat.

SEC. 8. EFFECTIVE DATE

This Act shall take effect immediately upon signature of the President of the United States.